

## MISSION

The Santa Fe Conservation Trust partners with our community to keep northern New Mexico's living lands and people flourishing together. We protect culturally and environmentally significant landscapes, ignite people's passion for nature and enable the continual regeneration of our healthy place.

## VISION AND VALUES

Conservation creates a balance of natural and developed land. It strengthens local economies, improves quality of life, instills community pride, attracts higher-paying businesses, supports healthy lifestyles, keeps children in touch with nature and preserves the intertwined heritage of landscapes and cultures.

In pursuit of its mission, SFCT conserves the natural places, especially river and stream corridors, and ranches and farms that define and sustain our rich and memorable landscape. We build public access and trails and work to reduce light pollution so that people can experience their natural heritage close to home.

SFCT envisions a future where everyone in northern New Mexico cherishes nature and works to preserve it for this and future generations.

## STRATEGIES

SFCT is a practical, on-the-ground partner for private landowners and communities wishing to permanently protect the conservation values of their land. We work with willing landowners to create voluntary, permanent land protection agreements (conservation easements) on private property.

Our landowner partners enter into such agreements for reasons as diverse as they are, including the desire to permanently preserve the land they love, ensure its availability for future generations and protect unique ecological or archeological assets.

In most cases, our work with landowners allows them to access significant tax benefits. The value of a conservation easement donated to SFCT may be deducted from federal income taxes as a charitable gift. A state law allows sale of the tax credit to a third party for cash.

## GEOGRAPHY

SFCT works throughout the greater Santa Fe Area, the Galisteo Basin, Pecos River Valley, San Miguel County, Los Pinos River Valley and Rio Arriba County.

## HISTORY

Created in 1993, SFCT currently holds conservation easements on 40,000+ acres in northern New Mexico. SFCT has also been a partner in the development of the Dale Ball Trail system, Santa Fe Rail Trail, Sun Mountain Community Trail, La Piedra Trail and the Arroyo Hondo Open Space Trail system.

## FUTURE

Acquiring and monitoring conservation easements on iconic landscapes in perpetuity is at the core of SFCT's work. The long-term continuation of this work is dependent upon public support. SFCT is a 501(c)3 non-profit organization, making your donations tax-deductible to the full extent allowed by the IRS.

Visit [sfct.org](http://sfct.org) for more information about SFCT's work and the many economic and community benefits of conserving the land you love.

# WHAT IS A CONSERVATION EASEMENT?

## *conservation easements*

### THE BASICS

In use for over 100 years, conservation easements are legal agreements that permanently retire certain development rights of a property, as agreed upon by the property owner and a land trust. Each conservation easement is unique in that it restricts and protects the specific rights and land values that the owner wishes to conserve on a particular piece of property. And yet all conservation easements have one thing in common: they must provide a significant public benefit.

Conservation values may be agricultural, scenic, historic, ecological (wildlife habitat), or recreational, and the public benefits through their protection. This does not mean that the conservation easement must allow for public access (in fact this is one of the biggest misconceptions of easements) it simply means that the surrounding community directly benefits by the land being conserved.

For example, if a landowner retires specific building rights and decides not to build houses on a scenic ridge top that is viewed from a major public road, then he or she is preserving a scenic view the public can see and enjoy. By restricting development the landowner preserves the view (a conservation value) and the public benefits from these actions.

Every conservation easement must be recorded with the county clerk and is tied to the land in perpetuity. The easement passes from landowner to landowner in concept since it is forever tied to the land. The land trust “holds” the easement, taking on the responsibility to ensure that the terms of the easement are met and visits the property each year to see that the terms of the easement are being followed. In retiring certain development rights, a landowner is often giving-up a large amount of their land’s value. This value is determined by an appraisal and if the landowner donates the conservation easement to a land trust the value is considered a donation or gift by both the federal and state government, qualifying the landowner for a federal tax deduction and a state tax credit in certain cases.

Placing a conservation easement on a property is a process —similar to carefully purchasing real estate and requires planning and coordination. Generally speaking the process can take from six to twelve months to complete; and approximately three months longer if the landowner is applying for state tax credits.

# THE PROCESS

## *conservation easements*

### PRE-PROJECT APPROVAL

- 1) Educate Yourself on Conservation Easements via:
  - Sit down with the Santa Fe Conservation Trust staff
  - Gather information from the internet, including SFCT: [sfct.org](http://sfct.org) and the Land Trust Alliance: [lta.org](http://lta.org)
  - Talk to landowners who have conservation easements
- 2) Determine if a Conservation Easement Will Meet Your Family's Personal and Estate Planning Goals  
Often the decision of placing a conservation easement on your property is a family matter. Discuss the implications of an easement with the concerned parties and determine if a consensus can be reached. Consult with your financial advisor early and throughout this process to determine the federal and state tax benefits of completing a conservation easement and how that fits in with your estate planning.
- 3) Determine if Your Project is a Fit for SFCT. Call SFCT to determine if your property meets our criteria. In some cases a site visit will be necessary. You also need to make sure that this is a good fit for yourself. After a phone call or site visit, SFCT will rank your property and the staff will present it to the Board of Directors. (SFCT may decline to accept any conservation easement or other conveyance at any time, for any reason deemed appropriate by the Board.)

### DETERMINE YOUR TITLE AND MINERAL RIGHTS TO SEE IF YOU CAN MOVE FORWARD

#### 1) Title Commitment and Insurance

Contact a title company and request a Title Commitment, which will allow you and SFCT to determine if there are any title complications that need to be cleared up. If we complete the project, SFCT requests title insurance in the amount of \$100,000 to insure the conservation easement. If you have mortgages on your property, SFCT will require the lien holder to subordinate the mortgage to the conservation easement.

#### 2) Mineral Rights Search and Mineral Remoteness Letter

At the same time you request a Title Commitment from a title company, ask the title company to run a Mineral Right search for you.

If you do not own all of your mineral rights, SFCT will contact a qualified geologist to order a "Mineral Remoteness Letter". This letter indicates that the owners of the minerals are highly unlikely to mine their assets because the likelihood of mining is "so remote as to be negligible". This is required by the IRS for the tax deduction.

If you cannot obtain a Mineral Remoteness Letter you will have to exclude that portion of your property where the mineral rights are severed, or if the severance encompasses the entire property, SFCT will not be able to complete a conservation easement with you.

# COMPLETE YOUR PROJECT

## *conservation easements*

### 1) Find an Experienced Attorney

Do not make the mistake of thinking that all attorneys (and financial advisors) know the intricacies of conservation easements. Seek professionals who are knowledgeable about this subject. It will save you time and money.

### 2) Obtain Due Diligence Documents

The staff at SFCT can provide you with a list of documents that we will need copies of, such as legal descriptions, deeds, surveys, water rights, title insurance etc. to complete the process. It is best to get as much of this done as early in the process as you can because many of the other steps will need this information.

### 3) Determine Which Activities to Allow and Which to Prohibit on Your Land

Work with the SFCT staff to create a list of permitted activities and restrictions that are often addressed with conservation easements.

### 4) Obtain a Preliminary Appraisal

Although you will need a full appraisal to complete a conservation easement, you may want to get a preliminary appraisal that will enable you to sit down with your financial advisor. Seek a state certified, experienced appraiser because this transaction will have to stand up to IRS standards and can have dire consequences if it doesn't.

### 5) Draft a Baseline Document with Land Trust

SFCT will create a "Baseline Document" (also called a Present Condition Report). Through narrative, maps and photos, the Baseline Document establishes the present condition of the property when the conservation easement is put on it. It is required by the IRS and serves to: 1) demonstrate to the IRS that there are significant Conservation Values on the property, and 2) be the benchmark against which any violations of the terms of the conservation easement are measured.

### 6) Draft the Conservation Easement Document with Land Trust and Attorney

SFCT has a boilerplate conservation easement document. However, each easement is tailored to the desires of the landowner and the needs of the land. You, your attorney and the staff at SFCT need to work together to create mutually agreeable terms for your conservation easement deed. This deed may need to be passed back and forth several times to produce the final product.

### 7) Obtain a Complete Appraisal

A complete appraisal is required in any case where tax benefits are sought. The IRS requires that a complete appraisal be filed with any conservation easements valued at \$500,000 or more. It is very important to tell your appraiser that the appraisal must be done within 60 days prior to the donation of the easement.

### 8) Agree on Final Conservation Easement Document

After all parties (landowner, SFCT and both parties attorneys) agree that the terms written in the conservation easement are acceptable, and all due diligence is complete, the deed is ready for filing.

### 9) File Conservation Easement Document

The conservation easement document must be filed in the County Clerks office of the county where the land is located.

# FILING FOR TAX BENEFITS

## *conservation easements*

### AFTER COMPLETING YOUR PROJECT

#### 1) Consult with Financial Advisor Regarding Filing For Potential Tax Benefits

Complete the process with your financial advisor to file the appropriate forms and financials to receive potential Federal and State tax benefits. SFCT and the appraiser will sign the Form 8283.

In addition to the steps listed above, some cases may require other steps, such as a survey or an environmental assessment, and the staff at SFCT can provide you with a list of professionals that we have worked with in these fields and guide you through the process and discuss your particular situation.

Please Note: While SFCT is pleased to provide landowners with this service, our staff are not attorneys, financial planners, geologists or appraisers. As such, the SFCT staff is not qualified to dispense specific numbers and information regarding these fields of expertise. We urge you to hire experienced consultants to complete your conservation team.

# TAX BENEFITS OF

## *conservation easements*

### **WHAT IS A CONSERVATION EASEMENT?**

In use for over 100 years, conservation easements—sometimes called private land protection agreements—are legal agreements private landowners can use to protect their open, natural lands in perpetuity. Legally binding, conservation easements permanently retire certain development rights of a property, as agreed upon by the property owner and a land trust. Each conservation easement is unique in that it restricts and protects specific values that the owner wishes to conserve on their particular piece of property. These conservation values may be agricultural, scenic, historic, ecological, or recreational. The land trust holds the easement in perpetuity, taking on the responsibility of ensuring that the terms of the easement are met, regardless of who owns the property in the future. Conservation easements ride with the property, not the landowner. A landowner who places a conservation easement on their property still retains ownership and may sell, mortgage, or bequeath their land as usual. However, because it retires certain development rights, a conservation easement often significantly reduces a land's potential monetary value. This figure, as determined by a special appraisal, is considered a charitable gift by both the federal and state government, qualifying the landowner for a federal tax deduction, and—since 2008—a transferable (saleable) state tax credit.

### **WHAT IS THE FEDERAL TAX DEDUCTION?**

The value of a donated easement may be deducted from Federal income taxes as a charitable gift. For donations made an easement donor may deduct the full value of the easement up to 50% of adjusted gross income. Donors may carry this deduction forward up to 16 years until the value of the charitable gift is spent in tax savings.

### **WHAT IS THE NEW MEXICO LAND CONSERVATION TAX CREDIT?**

The New Mexico Land Conservation Tax Credit is a state tax credit designed to encourage the conservation of New Mexico's private open lands. Landowners who donate land or conservation easements may receive a tax credit of 50% of the easement's value, up to \$250,000, that can be used as a dollar-for-dollar write-off of state income taxes. The tax credit is also transferable, allowing sale of the tax credit to a third party for cash—an attractive option for landowners whose state tax bills are relatively low.

### **HOW CAN I EARN AND USE A TAX CREDIT?**

To earn a tax credit, a landowner must donate a conservation easement to a qualified land trust or government entity. Prior to the donation, the state's Energy, Minerals, and Natural Resources Department reviews the easement agreement to ensure that it meets state standards. After donating the easement, the owner submits an application to the state, which then issues the credit. Once earned, a landowner may either:

- Use their credit to reduce state income tax liability (and carry forward unused credits for up to 20 years), or
- Receive cash compensation for the credit by selling all or a portion of it to a third party.

# TAX BENEFITS OF

## *conservation easements*

### **CALCULATING A CREDIT:**

As an example, if a landowner donates a conservation easement valued at \$600,000 to a qualified land trust, that landowner is eligible to receive a tax credit of \$250,000 (50% of \$600,000 is \$300,000, but the credit is limited to \$250,000). If there are listed co-owners of the property (for example, a husband and wife, each of whose names must be on the deed), each would be entitled to earn the maximum \$250,000 credit. In this example, the two co-owners would split the \$300,000 credit, each receiving \$150,000 for a total of \$300,000.

### **ONCE EARNED, HOW DO I TRANSFER MY CREDIT?**

Once you earn a tax credit, you may transfer it to a third party. This offers you immediate compensation, and offers third parties the opportunity to reduce their tax liability. You're free to attempt to locate your own third party purchaser, but you may find it beneficial to use a credit facilitator instead. We can help you with this. Landowners who transfer their credit should expect to receive approximately 80% of the value of their donation.

### **HOW CAN I LEARN MORE ABOUT PROTECTING MY LAND WITH A CONSERVATION EASEMENT?**

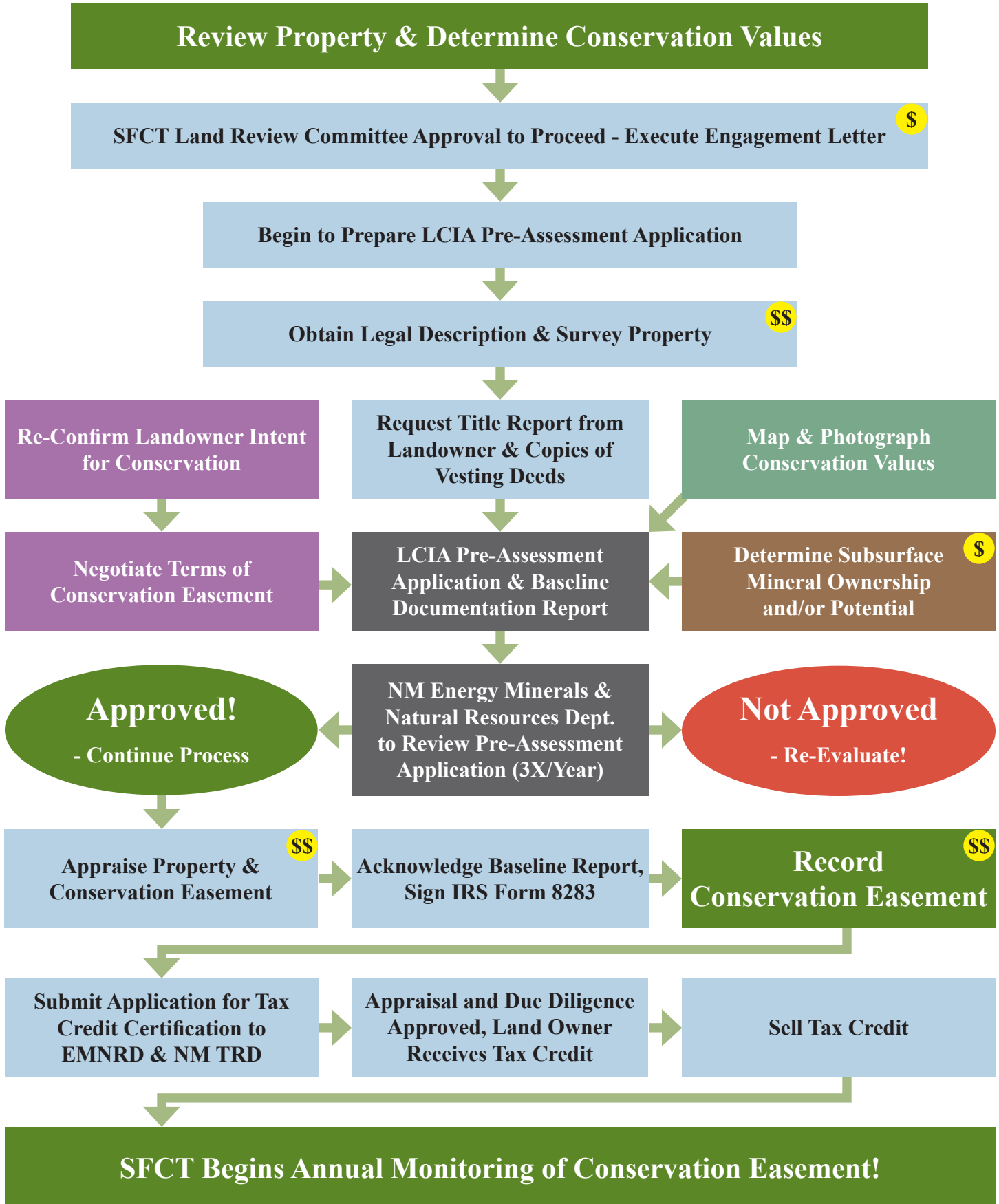
The Santa Fe Conservation Trust is a qualified New Mexico land trust. We work with you every step of the way to ensure the easement donation process moves smoothly and your goals and needs are met. To learn more about donating a conservation easement, please contact the Trust at [info@sfct.org](mailto:info@sfct.org), or use the information at the bottom of this sheet—and thank you for considering protecting your land.



# Conservation Easement Process

NM LCIA Version

*Santa Fe Conservation Trust Landowner Document*







### Approximate Costs for Donating a Conservation Easement

- Appraisal: \$10,000 to \$25,000
- Title Policy: \$1,000 to \$5,000
- Geology Report: \$1,500
- Survey: \$3,000 to \$10,000
- Baseline Documentation Report, Easement Drafting and State Tax Credit Application (done by SFCT): \$12,700
- Stewardship Donation to SFCT (tax deductible): \$20,000 to \$40,000 based on the complexity of the conservation easement
- Landowner attorney and tax advisor fees: SFCT supplies templates to keep fees as low as possible.
- Phase One Environmental Assessment, if needed: \$5,000 to \$10,000 (not common)

# LANDOWNER QUESTIONNAIRE

## *conservation easements*

This form is to aid the Santa Fe Conservation Trust in tailoring your conservation easement to your land protection and financial planning goals. We hope you find it useful.

Today's date: \_\_\_\_\_ Landowner name(s): \_\_\_\_\_

Property name or description: \_\_\_\_\_

Property acreage: \_\_\_\_\_

*For each question, please check all that apply.*

### I. YOUR GOALS AS A LANDOWNER

a. What values are important to you in regard to your property?

- |  |   |
|--|---|
| <input type="checkbox"/> place to live   | <input type="checkbox"/> pass on to children                    |
| <input type="checkbox"/> place to visit  | <input type="checkbox"/> preserve natural landscape and setting |
| <input type="checkbox"/> financial asset | <input type="checkbox"/> other: _____                           |

b. How are you likely to use your property in the next 20 years?

- |   |   |
|---|---|
| <input type="checkbox"/> leave as is    | <input type="checkbox"/> give to children |
| <input type="checkbox"/> build house(s) | <input type="checkbox"/> other: _____     |
| <input type="checkbox"/> sell           |   |

c. Why are you considering a conservation easement?

- |   |   |
|---|---|
| <input type="checkbox"/> desire to keep land open | <input type="checkbox"/> desire to protect special land feature or wildlife |
| <input type="checkbox"/> tax deduction            | <input type="checkbox"/> avoid family conflicts about future uses           |
| <input type="checkbox"/> estate planning          | <input type="checkbox"/> other: _____                                       |

d. Which actions are consistent with your goals for the property?

- ☐ Create opportunities to enhance existing wildlife, scenic and/or agricultural resources as one of the primary uses of the property.
- ☐ Create strong conservation restrictions so that existing wildlife, scenic and/or agricultural resources are maintained and not diminished.
- ☐ Protect existing land resources but allow room for some development for children or others.
- ☐ Create restrictions to generally protect land resources and get tax deduction.

e. Are you uncertain about how you would like to use your property in the future (yes/no)? \_\_\_\_\_

**OFFICE USE ONLY** Property: \_\_\_\_\_ date: \_\_\_\_\_

**SANTA FE CONSERVATION TRUST**  
**SFCT.ORG**

**505.989.7019**

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**INFO@SFCT.ORG**

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# LANDOWNER QUESTIONNAIRE

## *conservation easements*

### 2. PROPERTY DESCRIPTION AND CONSERVATION VALUES

- a. How many legal parcels does it consist of and what is the size of each parcel? \_\_\_\_\_
- b. What qualities of the property are you most interested in protecting? \_\_\_\_\_
- c. Which special features of the property are important to you to protect?
- |  |                                  |
|--|----------------------------------|
| ___ Homestead/family history           | ___ Topographical or geological  |
| ___ Wildlife observation and resources | ___ Stream frontage, ponds, etc. |
| ___ Forestry or agricultural use       | ___ Other: _____                 |
- d. Are there any benefits of adjoining lands that are especially important to you (e.g., protected open space, scenic vistas, special land features.)? If any, please briefly describe.
- \_\_\_\_\_
- \_\_\_\_\_

### 3. PROPERTY OWNERSHIP AND LAND DIVISION

- a. Is the property owned jointly with other family members \_\_\_\_\_ or non-family partners \_\_\_\_\_ ? If so, is each name listed on the deed of ownership? \_\_\_\_\_
- b. How many years have you or your family owned the property? \_\_\_\_\_
- c. Has/have the owner(s) of record changed during that period (e.g., from a couple to an individual, partnership or trust?) \_\_\_\_\_
- d. Do you contemplate changing ownership in the future? \_\_\_\_\_ If yes, why and in what way? \_\_\_\_\_
- \_\_\_\_\_
- e. Is your property divided (e.g., multiple lots, subdivision, etc.)? \_\_\_\_\_ If so, please briefly describe. \_\_\_\_\_
- \_\_\_\_\_
- f. Do you contemplate dividing your property? \_\_\_\_\_
- g. Is your property encumbered with any of the following?
- |                       |                               |
|-----------------------|-------------------------------|
| ___ Covenants         | ___ Other easements of record |
| ___ Deed restrictions | ___ Current use               |
| ___ Road easements    | ___ other: _____              |
| ___ Utility easements |                               |
- h. Is the property that you are interested in protecting part of a larger adjacent property holding? \_\_\_\_\_
- i. Do you own other land elsewhere in northern New Mexico? \_\_\_\_\_ If so, please describe briefly. \_\_\_\_\_
- \_\_\_\_\_

# LANDOWNER QUESTIONNAIRE

## *conservation easements*

### 4. CURRENT AND FUTURE USE OF PROPERTY

a. Do you now or plan in the future to use your property for any of the following?

- |  |  |
|--|--|
| <input type="checkbox"/> agriculture             | <input type="checkbox"/> commercial/industrial use |
| <input type="checkbox"/> home-occupancy business | <input type="checkbox"/> long-term leasing         |

b. Do you now or plan in the future to manipulate your property in any of the following ways?

- |   |  |
|---|--|
| <input type="checkbox"/> wetland enhancement or pond creation | <input type="checkbox"/> fishery or wildlife habitat enhancement |
| <input type="checkbox"/> watercourse channeling               | <input type="checkbox"/> tree or vegetation clearing             |
| <input type="checkbox"/> topographical grading                | <input type="checkbox"/> mining or graveling                     |
| <input type="checkbox"/> road building                        | <input type="checkbox"/> creating landing pad or airstrip        |
| <input type="checkbox"/> trail building                       | <input type="checkbox"/> tilling for cultivation                 |

c. Do you now or plan in the future to use your property for any of the following recreational activities?

- |   |  |
|---|--|
| <input type="checkbox"/> walking          | <input type="checkbox"/> fishing               |
| <input type="checkbox"/> skiing           | <input type="checkbox"/> commercial recreation |
| <input type="checkbox"/> horseback riding | <input type="checkbox"/> large group tours     |
| <input type="checkbox"/> photography      | <input type="checkbox"/> hunting               |
| <input type="checkbox"/> snow machining   |  |

### 5. BUILDING

a. Briefly list the number and approximate size of existing building(s)

Principal residences: \_\_\_\_\_ Guest houses: \_\_\_\_\_

Non-residential buildings (e.g., detached garages and barns) \_\_\_\_\_

Ancillary structures (e.g., tennis courts, swimming pools, outdoor gazebos, barbecue facilities, etc.) \_\_\_\_\_

\_\_\_\_\_

b. Please briefly describe your future building plans, if any: \_\_\_\_\_

\_\_\_\_\_

### 6. MISCELLANEOUS

a. How useful was this questionnaire in working through or summarizing your thoughts regarding current and future planning for your property? \_\_\_\_\_

b. Please add any additional comments about your property that you wish to share with us. Thank you for your time and interest in completing this questionnaire. \_\_\_\_\_

\_\_\_\_\_